

PART 3 – LAND USE

Chapter 1 – Uses Permitted in Residential Districts

Chapter 2 – Uses Permitted in Commercial and Mixed-Use Districts

Chapter 3 – Uses Permitted in Office/Industrial Districts

Chapter 4 – Special Use Standards

Chapter 5 – Non-Conforming Situations

Chapter 1 – Uses Permitted in Residential Districts

Section 3-101 Purpose and Applicability.

Section 3-102 Permitted Uses In Residential Districts.

Section 3-101 Purpose and Applicability.

- A. Purpose.** The residential districts are designed to provide for neighborhoods ranging in densities from very low to moderately high. The differences in these densities and regulations are intended to support the varying lifestyles of the city's residents. The districts provide for a range of residential habitation including rural-agricultural, single family, multifamily, mobile home, and combinations thereof, together with home occupations, schools, parks, and public services necessary for neighborhood living.
- B. Applicability.** Residential land use districts fall under three categories:
1. Single family residential (AG, R1-15, R1-10, R1-8, R1-7, R1-6, R1-5, R1-4, and R1-PAD);
 2. Multifamily residential (R-2, R3-R, R-3, R-4, R-5,); and
 3. Mobile home (RMH, MHS, TP).
- C. Applicability of Other Code Chapters.** Uses permitted under this chapter shall conform to the development standards in Part 4 and the application procedures in Part 6, as applicable. Uses shall also conform to any overlay district requirements that are applicable. Uses permitted with special standards or limitations ("S" type uses) shall comply with the standards in Part 3, Chapter 4, Special Use Standards. Zoning Administrator opinions may also apply. See Appendix.

Section 3-102 Permitted Uses in Residential Districts.

Table 3-102 identifies land uses according to permit status. See key below the table:

Table 3-102 – Permitted Uses				
Uses	Status of Use in District			
	AG	SFR	MF	MH
Accessory Dwelling [Sec. 3-401]	N	N	S	N
Accessory, Buildings, Uses and Structures – except accessory dwelling [Sec. 3-402]	S	S	S	S
Agriculture, Horticulture, Apiaries, Aviaries, Keeping Livestock [Sec. 3-403]	<u>PS</u>	N	N	N
Bed and Breakfast [Sec. 3-404]	U(S)	U(S)	U(S)	N
Boutique [Sec. 3-405]	S	S	S	N
Cemeteries, Mausoleums, Crematoriums (AG or Multiple Family districts only)	U	<u>NU</u>	U	N
Chickens, Rabbits, Similar Small Animals:				
For farming (AG only)	P	N	N	N
Maximum five (5) each, excluding roosters and peafowl	P	P	N	N
Construction Offices, temporary	P	P	P	P
Country Clubs, Private Clubs, Golf Courses	U	<u>NU</u>	U	N
Day Care, In-Home:				
Not to exceed 6 children	P	P	P	N
7 to 10 children [Sec. 3-406]	U(S),	U(S)	U(S)	N
Fraternity and Sorority Houses in R-3 and R-4 Districts only	N	N	U	N
Group Homes for Adult Care, Disabled, Child Shelter [Sec. 3-407]	S	S	S	N
Guest Room <u>[Sec. 3-408]</u>	S	S	P	P
Guest Quarters <u>[Sec. 3-409]</u>	S	N	N	N
Home Occupations [Sec. 3-408]	S	S	S	S
Horse Stables, commercial (AG only) [Sec. 3-403]	U	N	N	N
Horses, keeping of (in the R1-15, R1-10, and AG districts only) <u>[Sec. 3-403]</u>	<u>PS</u>	<u>U(S)</u>	N	N

Key:

P = Permitted
S = Permitted with special standards or limitations
U = Use permit required
N = Not permitted

SFR = Single family districts
AG = Agriculture districts
MF = Multiple family districts
MH = Mobile home district

Table 3-102 – Permitted Uses

Uses	Status of Use in District			
	AG	SFR	MF	MH
Hospitals, Sanitariums, Nursing Homes, Convalescent Homes, Orphanages, Institutions of Mentally Disabled (AG, R-3, R-3R, R-4 only) and not less than 50 feet from an adjoining use. [Sec. 3-411]	U(S)	N	U(S)	N
Live-Work, R-5 only [Sec. 3-409]	N	N	U (S)	N
Mobile Homes [Sec. 3-410]	N	N	N	S P
Multifamily Dwelling (2 or more- dwelling s families)	N	N	P	N
Nursery Schools and Day Care Centers (R-3, R-3R, and R-4 districts only)	N	N	U	N
Parking Facilities for Commercial Uses – off-street and not enclosed in a building	N	N	U	N
Places of Worship; except tents, and other temporary structures or buildings not permitted	P	P	P	P
Processing of Farm Products customarily incidental to a permitted farm use and with a net site area of 5 acres or more	U	N	N	N
Public Facilities (make it consistent with Table 3-202A Public Uses)	U	U	U	N
Public Parks, Public Recreation Areas, and Publicly Owned and Operated Properties	P	P	P	P
Residential Sales Office, temporary [Sec. 3-411]	S	S	S	S
Retailing of Farm Products Produced on Premises	U	N	N	N
School, charter	U	U	N	N
School, private	U	U	N	N
School, public	P	P	P	P
Similar Uses [Sec. 6-301]	U	U	U	U
Single Family Dwellings:				
Single Family Dwelling:	P	P	P	P
Second Story Addition or Replace Single Story With 2 or More Stories [Sec. 3-412]	U (S)	U(S)	U(S)	N
Wireless Telecommunication Facilities [See Section 3-413]	U(S)	U(S)	U(S)	U(S)

Key:

P = Permitted
 S = Permitted with special standards or limitations
 U = Use permit required
 N = Not permitted

SFR = Single family districts
 AG = Agriculture districts
 MF = Multiple family districts
 MH = Mobile home district

Chapter 2 – Uses Permitted in Commercial and Mixed-Use Districts

Section 3-~~301~~201 Purpose and Applicability.

Section 3-~~302~~202 Permitted Uses in Commercial and Mixed-Use Districts.

Section 3-~~301~~201 Purpose and Applicability.

A. Purpose. The Commercial and Mixed-Use districts land use standards are intended to:

1. Allow a mixture of complimentary land uses that may include retail, offices, commercial services, civic uses, and housing to create economic and social vitality, and to encourage the linking of trips;
2. Develop commercial and mixed-use areas that encourage walking as an alternative to driving and provide employment and housing options;

B. Applicability. Commercial and mixed-use districts fall under six categories:

PLACE RO, CSS, CC, PCC1 & 2, RCC, MU-1,2,3,4 in THAT ORDER BELOW.

1. City Center (CC). The CC district fosters employment and livability in Tempe's city center by providing retail, offices, moderate- and high-density residential uses, entertainment, civic uses, and cultural exchange in a mixed-use environment that supports the public investment in transit and other services.
2. Commercial Shopping and Services (CSS). The CSS district is intended to meet the daily shopping and service needs of Tempe's neighborhoods.
3. Mixed-Use Commercial and Residential (MU-1, MU-2, MU-3, MU-4). The MU zone districts allow the integration of commercial and residential uses to support walking and transit as alternates to driving, and to provide employment and housing options. MU districts allow a range of development intensities and uses including, but not limited to: personal and professional services, institutional and civic uses, retail, ~~multiple-mult-~~ family dwellings, attached single family dwellings, and mixed-use buildings and building sites. All mixed use districts requires a PAD for processing.
 - a. The MU-1 district combines low to medium density housing with commercial and/or office uses that serve the neighborhood.
 - b. The MU-2 district combines medium density housing with commercial and/or office uses that serve the neighborhood.
 - c. The MU-3 district combines medium to high density housing with commercial and/or office uses that serve the neighborhood.

- d. The MU-4 district is a mixed-use setting with high-density housing, and civic and employment uses. Development intensity in the MU-4 district is established through the P.A.D. process and must be consistent with the City's ability to provide public facilities.
 - 4. Planned Commercial Center (PCC-1, PCC-2). The PCC districts are for neighborhood (PCC-1) or ~~comprehensive-general~~ (PCC-2) retailing, services and entertainment uses oriented to serve the needs of the neighborhood, community or the metropolitan region. Residential uses and mixed-use may be permitted if approved as part of the PAD or PAD amendment. (~~R~~requires a PAD).
 - 5. Regional Commercial Center (RCC). The ~~purpose~~-RCC district provides regional shopping facilities in locations deemed appropriate to serve large demographic areas. (~~R~~requires a PAD).
 - 6. Residential~~lee~~/Office (R/O). The Residential~~lee~~/Office district allows professional and administrative services, live-work, and limited retail uses on small parcels located between higher intensity commercial and multi-use zones and residential zones.
- C. **Applicability of Other Code Chapters.** Uses permitted under this chapter shall conform to the development standards in Part 4 and the application procedures in Part 6, as applicable. Uses shall also conform to any overlay district requirements that are applicable. Uses permitted with special standards or limitations ("S" type uses) shall comply with the standards in Part 3, Chapter 4, Special Use Standards. Zoning Administrator opinions may also apply. See Appendix.

Section 3-202 Permitted Uses in Commercial and Mixed-Use Districts

Table 3-202 identifies land uses according to permit status. See key below the table:

MOVE CC AFTER CSS in CHART BELOW.

Table 3-202A – Permitted Land Uses (R/O, CC, CSS, PCC, RCC)

Uses	Status of Use District					
	R/O	CC	CSS	PCC1	PCC 2	RCC
<u>Accessory Use</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
Bakery	N	P	P	P	P	P
Brewery	N	U	U	U	U	P
Cemeteries, Crematoriums and Mausoleums	N	U	U	U	U	N
Childcare Center	P	P	P	P	P	P
Clinic (medical, dental, veterinary (small animals))	P	P	P	P	P	P
Clubs:						
Bar (indoor or outdoor), tavern, or nightclub (a)	N	U	U	U	U	P
Lodge or similar organization (a)	N	P	P	P	P	P
Teen night club (a)	N	U	U	U	U	U
Convenience Store (a)	N	P	P	P	P	P
With gas/fuel sales (a)	N	N	U	U	U	P
Entertainment :	<u>N</u>	<u>U</u>	<u>U</u>	<u>U</u>	<u>U</u>	<u>P</u>
Theater or similar use,	N	P	P	P	P	P
Amusement businesses (a)	N	U	U	U	U	P
Outdoor (permanent use)	N	U	U	U	U	U
Financial Institutions	P	P	P	P	P	P
Fine Arts Class Instruction	U	P	P	P	P	P
Heliport	N	U	U	U	U	U

Key:

P = Permitted
 S = Permitted with special standards or limitations
 U = Use permit required
 N = Not permitted

R/O = Residence/Office
 CC = City Center
 CSS = Commercial Shopping and Services
 PCC1 = Planned Commercial Center Neighborhood
 PCC2 = Planned Commercial Center Comprehensive
 RCC = Regional Commercial Center

(a) Security plan required. See Appendix.

Table 3-202A – Permitted Land Uses (R/O, CC, CSS, PCC, RCC)

Uses	Status of Use District					
	R/O	CC	CSS	PCC1	PCC 2	RCC
Hospitals, Sanitariums, Nursing Homes, Convalescent Homes, Orphanages, Institutions of Mentally Disabled (AG, R-3, R-3R, R-4 only) and not less than 50 feet from an adjoining use. <u>[Sec. 3-411]</u>	N	<u>U(S)</u>	<u>U(S)</u>	<u>U(S)</u>	<u>U(S)</u>	<u>U(S)</u>
Hotels and Motels (a)	N	U	U	U	U	P
Industrial Service (e.g., cleaning, repair, and similar services for commercial or industrial properties) (See also, Vehicle Sales and Service)	N	P	P	U	U	P
Live-Work [Sec. 3-409]	P	P	N	U	U	N
Mini Warehouse [Sec. 3-414]	N	N	U(S)	U(S)	U(S)	S
Offices	P	P	P	P	P	P
Outdoor Storage of equipment, goods, or materials	N	N	N	U	U	U
Parking, <u>Commercial:</u>						
Parking <u>Commercial Surface</u>	N	U	U	P	P	P
Surface Structure	N	P	U	U	U	P
Photography Studio [Sec. 3-417]	P	P	P	P	P	P
Public Uses:						
Civic facilities <u>(e.g., post office, library, city office, customer serving)</u>	P	P	P	P	P	P
Municipal Facilities <u>(maintenance, repair and storage)</u>	<u>U</u>	U	U	U	U	U
Customer serving (e.g., post office, library, city office)	U	P	P	P	P	P
Open space, parks, similar uses (See also, Schools)	P	P	P	P	P	P
Radio and Television Studios with Receiving and Transmitting Towers	N	N	U	U	U	P
Residential, caretaker residence	P	P	P	P	P	P
Residential, except caretaker residence	P	P	N	U	U	N
Restaurants (a)	N	P	P	P	P	P
With drive-in or drive-through, [Sec. 3-415]	N	N	S	S	S	S

Key:

P = Permitted

S = Permitted with special standards or limitations

U = Use permit required

N = Not permitted

R/O = Residence/Office

CC = City Center

CSS = Commercial Shopping and Services

PCC1 = Planned Commercial Center Neighborhood

PCC2 = Planned Commercial Center Comprehensive

RCC = Regional Commercial Center

(a) Security plan required. See Appendix.

Table 3-202A – Permitted Land Uses (R/O, CC, CSS, PCC, RCC)

Uses	Status of Use District					
	R/O	CC	CSS	PCC1	PCC 2	RCC
Entertainment as accessory use (a)	N	U	U	U	U	P
With liquor license (a)	N	P	P	P	P	P
Outdoor Dining (a)	N	P	P	P	P	P
Retail Sales: <i>(delete line below -- between retail sales and drive-thru)</i>	<u>N</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
Drive-through or drive-in [Sec. 3-415]	N	<u>U</u> P(S)	<u>P</u> (S)	<u>P</u> (S)	<u>P</u> (S)	<u>P</u> (S)
Outdoor Retail Display <u>[Sec.3-416]</u>	S	<u>S</u> N	S	S	S	S
Smoke shops,	<u>N</u>	<u>S</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>
Pawn shops (a)	N	U	U	U	U	U
Outdoor Retailing related to special sporting events, temporary (a)	N	S	S	S	S	S
Schools, private, charter and other, Includes dormitories <u>charter</u>	U	U	U	U	U	U
<u>Schools, private</u>	<u>U</u>	<u>U</u>	<u>U</u>	<u>U</u>	<u>U</u>	<u>U</u>
Schools, public	P	P	P	P	P	P
Services:						
Personal or business	N	P	P	P	P	P
Barber/ beauty salon	N	P	P	P	P	P
<u>Drycleaner</u>	<u>N</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
Drycleaner	<u>N</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
travel agency	<u>N</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
Minor appliance repair	N	P	P	P	P	P
Tattoo shops, body piercing	N	U	U	U	U	U
Catering service	N	P	P	P	P	P
Courier/delivery service	N	U	U	U	P	P
Similar Uses [Sec. 6-301]	U	U	U	U	U	U
Taxi Dispatch	N	U	U	U	P	P
Tutoring/After School Learning Center	P	P	P	P	P	P

Key:

P = Permitted
 S = Permitted with special standards or limitations
 U = Use permit required
 N = Not permitted

R/O = Residence/Office
 CC = City Center
 CSS = Commercial Shopping and Services
 PCC1 = Planned Commercial Center Neighborhood
 PCC2 = Planned Commercial Center Comprehensive
 RCC = Regional Commercial Center

(a) Security plan required. See Appendix.

Table 3-202A – Permitted Land Uses (R/O, CC, CSS, PCC, RCC)

Uses	Status of Use District					
	R/O	CC	CSS	PCC1	PCC 2	RCC
Vehicle:						
Sales, Rental	N	N	U	U	U	P
Vehicle repair/service	N	N	U	U	U	P
Major {Sec-}	N	N	U	U	U	N
Minor {sec-}	N	N	U(S)	U	U	U
Service station/fuel sales [Sec. 3-416]	N	N	U(S)	U(S)	U(S)	S
Car wash, self service [Sec. 3-415]	N	N	U(S)	U	U	P
Car wash, full service [Sec. 3-415]	N	N	U	U(S)	U(S)	S
Warehouse Commercial	N	P	P	P	P	P
Wireless Telecommunication Facilities [Sec. 3-413]	U(S)	U(S)	U(S)	U(S)	U(S)	U(S)

Key:

P = Permitted
 S = Permitted with special standards or limitations
 U = Use permit required
 N = Not permitted

R/O = Residence/Office
 CC = City Center
 CSS = Commercial Shopping and Services
 PCC1 = Planned Commercial Center Neighborhood
 PCC2 = Planned Commercial Center Comprehensive
 RCC = Regional Commercial Center

(a) Security plan required. See Appendix.

Table 3-202B – Permitted Land Uses (MU-1, MU-2, MU-3, MU-4)

Uses	Districts			
	MU-1	MU-2	MU-3	MU-4
<u>Accessory Use</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
Bakery	P	P	P	P
Bed and Breakfast	P	P	P	P
Brewery (a)	U	U	P	P
Childcare Center	P	P	P	P
<u>Public Uses:</u> <u>Civic facilities/parks</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u> <u>N</u>
<u>Sales, Rental</u>	<u>N</u>	<u>N</u>	<u>N</u>	
Clinic (medical, dental, veterinary (small animals))	P	P	P	P
Clubs: <u>(put in alphabetical order, eg. Bar, lodge, teen)</u>				
Lodges & similar organization (a)	U	P	P	P
Teen nightclub (dance hall) (a)	N	N	U	P
Bar, tavern, nightclub (a)	<u>N</u> <u>U</u>	U	U	P
Entertainment	U	U	P	P
Theater or similar use	<u>N</u> <u>U</u>	U	U	P
Amusement (arcade) (a)	N	U	U	P
Outdoor/permanent use	N	N	N	N
Financial Institutions	P	P	P	P
With drive-through	N	N	U	P

Key:

P = Permitted

S = Permitted with special standards or limitations

U = Use permit required

N = Not permitted

(a) Security plan required. See Appendix.

MU-1 = Low – Medium Density District

MU-2 = Medium Density District

MU-3 = Medium – High Density District

MU-4 = High Density District

Table 3-202B – Permitted Land Uses (MU-1, MU-2, MU-3, MU-4)

Uses	Districts			
	MU-1	MU-2	MU-3	MU-4
Fine Arts Class Instruction	P	P	P	P
Freight Transportation and Distribution	N	N	N	N
Hospitals, except clinics	N	N	U	U
Hotels and Motels (a)	N	U	P	P
Industrial Service (e.g., cleaning, repair, and similar services)	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
Live-Work [Sec. 3-409]	P	P	P	P
Mini Warehouse [Sec.3-414]	N	N	N	N
Offices	P	P	P	P
Outdoor Storage of equipment, goods, or materials	N	N	N	N
Parking, <u>Commercial:</u>				
<u>Parking-commercial</u> <u>Surface</u>	N	N	U	U
<u>Surface</u> <u>Structure</u>	N	N	U	U
Photography Studio, except adult oriented businesses	P	P	P	P
<u>Public Uses:</u>				
<u>Civic facilities (e.g., post office, library, city office, customer serving)</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>Municipal Facilities (maintenance, repair and storage)</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>
<u>Open space, parks, similar uses (See also, Schools)</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
Residential caretaker residence	P	P	P	P
Residential	P	P	P	P
Restaurants	P	P	P	P
With drive-in or drive-through [Sec. 3-415]	N	N	U	P
Outdoor seating	P	P	P	P
Entertainment as accessory use (a)	U	U	U	P
With liquor license (a)	P	P	P	p
Retail Sales:	P	P	P	P

Key:

P = Permitted

S = Permitted with special standards or limitations

U = Use permit required

N = Not permitted

(a) Security plan required. See Appendix.

MU-1 = Low – Medium Density District

MU-2 = Medium Density District

MU-3 = Medium – High Density District

MU-4 = High Density District

Table 3-202B – Permitted Land Uses (MU-1, MU-2, MU-3, MU-4)

Uses	Districts			
	MU-1	MU-2	MU-3	MU-4
Drive-through [Sec. 3-415]	N	N	U(S)	S
Outdoor retailing related to special sporting events, temporary	N	N	S	S
Smoke shops,	S	S	S	S
Pawn shops (a)	N	N	N	N
Schools, private & charter: may include dormitories	U	U	U	U
Schools, public	P	P	P	P

Services (See also Vehicle Service):				
Personal or business (e.g. beauty, drycleaner)	P	P	P	P
With drive-through (e.g. dry cleaner) [Sec. 3-415]	N	S	S	S
Tattoo shops, body piercing facilities	N	N	U	U
Similar Uses: Any use similar to, and not more detrimental than the uses permitted herein, as determined by the zoning administrator, may be permitted upon securing a use permit [Sec. 6-301]	U	U	U	U
Tutoring/After School Learning Center	P	P	P	P
Wireless Telecommunication Facilities [Sec. 3-413]	U(S)	U(S)	U(S)	U(S)

Key:

P = Permitted

S = Permitted with special standards or limitations

U = Use permit required

N = Not permitted

(a) Security plan required. See Appendix.

MU-1 = Low – Medium Density District

MU-2 = Medium Density District

MU-3 = Medium – High Density District

MU-4 = High Density District

Chapter 3 –Uses Permitted in Office/Industrial Districts

Section 3-301 Purpose and Applicability.

Section 3-302 Permitted Uses in Office/Industrial Districts.

Section 3-301 Purpose and Applicability.

- A. **Purpose.** The Office/Industrial districts are designed to provide for office/industrial business involved in research, warehousing, wholesaling, and manufacturing. The facilities range in degree of intensity from administrative and research institutions to bulky assembly and concentrated productivity. The industrial districts allow the wide gamut of industrial uses, as expressed below.
- B. **Applicability.** Industrial uses are accommodated in three districts:
 - 1. Office Buffer District (OBD). Administrative and research industries, offices, and limited manufacturing to provide opportunities for employment ~~for~~ and for protection to neighborhood residential areas;
 - 2. Light Industrial District (LID). Office uses, warehousing, wholesaling, assembling and manufacturing of building materials, machinery and other commodities to provide employment centers and production; and
 - 3. Heavy Industrial District (HID). Intensive manufacturing, fabricating, and storage to provide for concentrated industrial uses.
- C. **Applicability of Other Code Chapters.** Uses permitted under this chapter shall conform to the development standards in Part 4 and the application procedures in Part 6, as applicable. Uses shall also conform to any overlay district requirements that are applicable. Uses permitted with special standards or limitations ("S" type uses) shall comply with the standards in Part 3, Chapter 4, Special Use Standards. Zoning Administrator opinions may also apply. See Appendix.

Section 3-302 Permitted Uses in Office/Industrial Districts.

Table 2-302A identifies land uses according to permit status. See key below the table:

Table 3-302A Permit Uses			
Uses	Districts		
	OBD	LID	HID
Accessory Use	P	P	P
Adult businesses [Sec. 3-417]	N	S	S
All uses permitted may include wholesaling, repairing, storage, and rental activities	N	P	P
Animal kennels, and animal hospitals	N	P	P
Retail commercial operations directly related to the primary industrial use may be permitted, provided they do not exceed fifteen (15%) of the primary industrial use.	N	P	P
Any retail use allowed in the following commercial and mixed use districts may be allowed with a use permit [sec 3-202].	N	U	U
Similar Use: Any use similar to, and not more detrimental than the uses permitted herein, as determined by the zoning administrator, may be permitted upon securing a use permit	U	U	U
Auto Body Repair	N	P	P
Automobile salvage	N	N	P
Ball bearing, boxes or cabinets manufacturing	N	U	P
Cement and paving material mixing plant	N	N	P
Chocolate, cocoa or coffee roasting or manufacturing	N	U	P
Computer centers, including computer hotels and similar technology facilities	P	P	P
Electronic instruments and devices, assembling and manufacturing	P	P	P
Exterminator and insect poison manufacturing	N	N	P
Extraction of sand, gravel and other natural resources	N	N	U
Farming, landscaping and agricultural supplies and equipment, wholesaling and storage	N	P	P
Foundry casting light-weight, nonferrous metal, not causing noxious odors or fumes	N	U	P
Fuel distributing station, gasoline (bulk plant)	N	U	P
Gasoline and petroleum bulk storage tanks	N	N	P

Key:

P = Permitted

S = Permitted with special standards or limitations

U = Use permit required

N = Not permitted

OBD = Office Buffer District

LID = Light Industrial District

HID = Heavy Industrial District

Table 3-302A Permit Uses

Uses	Districts		
	OBD	LID	HID
House-movers, equipment storage or wrecking yards	N	N	P
Ice manufacturing and storage	N	U	P
Industrial, scientific, or business research, development and testing laboratories and offices	P	P	P
Junkyards	N	N	P
Clinics: General, medical, dental, and veterinary <i>(Move alphabetically between "chocolate..." and "computer centers" on previous page)</i>	P	P	P
Offices <i>(Move alphabetically between "Motion Picture Studios" below and "Residence of a caretaker")</i>	P	P	P
Mini-warehouse [Sec. 3-414]	N	U(S)	S
Mobile home or trailer as a residence for a caretaker or operator employed on the premises. The residence may include the family of the caretaker.	U	U	U
Motion picture studios	P	P	P
Residence of a caretaker or operator employed on the premises; such residence may include the family of the caretaker	P	P	P
Stadium, Arenas	N	U	P
Temporary construction offices and shed, appurtenant signs and storage incidental to a construction project only for the duration of such project, not to exceed twenty-four (24) months	P	P	P
Warehouse	N	P	P
Wireless Telecommunication [See Section 3-413]	U(S)	U(S)	U(S)
Wood Products, manufacturing	N	P U	P

Key:

P = Permitted
 S = Permitted with special standards or limitations
 U = Use permit required
 N = Not permitted

IBD = Industrial Buffer District
 I1 = Light Industrial District
 I2 = General District
 I3 = Heavy Industrial District

Chapter 4 – Special Use Standards

Section 3-401	Accessory Dwellings.
Section 3-402	Accessory Building, Uses and Structures.
Section 3-403	Agricultural Uses.
Section 3-404	Bed and Breakfast.
Section 3-405	Boutique.
Section 3-406	Day Care, In Home 7-10 Children.
Section 3-407	Group Homes for Adult Care, Disabled, and Child Shelter.
<u>Section 3-408</u>	<u>Guest Room</u>
<u>Section 3-409</u>	<u>Guest Quarters</u>
Section 3-4 10 <u>08</u>	Home Occupation.
<u>Section 3-411</u>	<u>Hospitals, Sanitariums, Nursing Homes</u>
Section 3-4 12 <u>09</u>	Live-Work.
Section 3-41 3 <u>0</u>	Mobile Homes.
<u>Section 3-414</u>	<u>Outdoor Retailing, relating to special sporting events</u>
Section 3-41 5 <u>4</u>	Residential Sales Office, Temporary.
Section 3-41 6 <u>2</u>	<u>Single family Residential</u> Second Story Addition or Rebuild.
Section 3-41 7 <u>3</u>	Wireless Telecommunication Facilities.
Section 3-41 8 <u>4</u>	Mini- Warehouse .
Section 3-41 9 <u>5</u>	Drive-Through Facilities.
Section 3-4 20 <u>16</u>	Outdoor Retail and Display.
Section 3-4 21 <u>17</u>	Adult- <u>Oriented</u> Businesses.

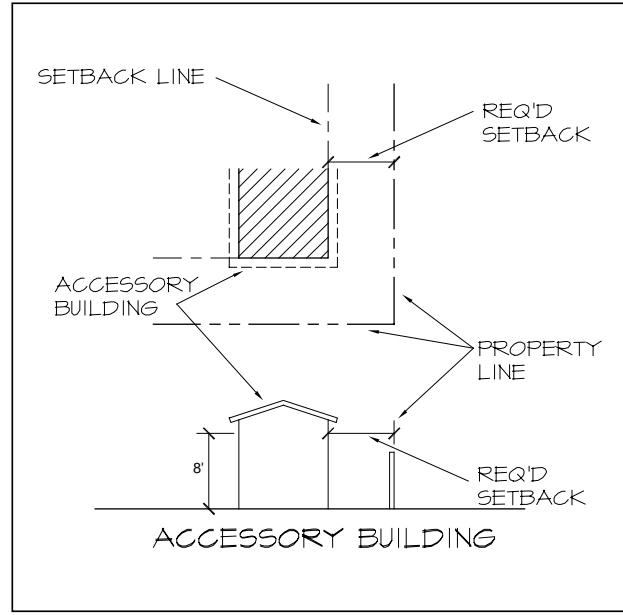
Section 3-401 Accessory Dwellings.

Accessory dwelling units (ADUs) are permitted in the multifamily districts when a property contains a single family residence, provided the following standards are met:

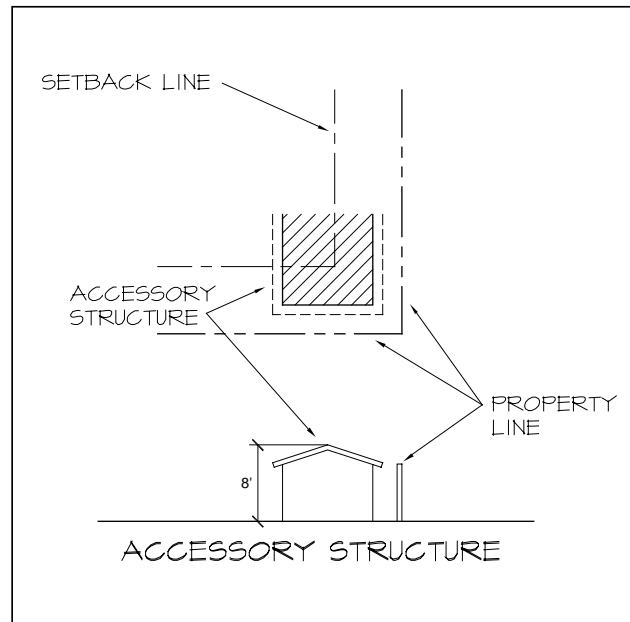
- A. **Use Permit.** Subject to approval of a use permit;
- B. **Building Codes.** Comply with applicable building codes and structural specialty codes;
- C. **One ADU per Lot.** A maximum of one accessory dwelling unit is allowed per multifamily dwelling lot. Only accessory dwelling units shall be used for sleeping or living purposes; ~~and they shall conform to the standards in Section 3-401.~~
- D. **Floor Area.** The maximum floor area of the accessory dwelling shall not exceed 600 square feet;
- E. **Development Standards.** Comply with the setback, building height, lot coverage, and other applicable development standards; The ADU does not count toward allowable density;
- F. **Infrastructure.** Sewer, water and utility services shall be provided to the dwelling in conformance with City standards.

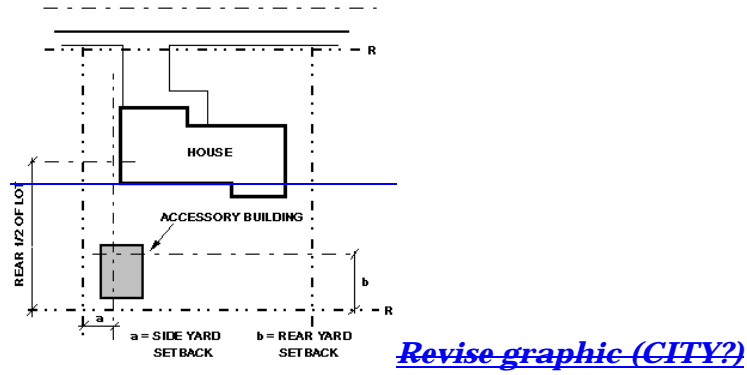
Section 3-402 Accessory Building, Uses and structures.

- A. **Applicability.** Accessory buildings, uses and structures shall be incidental to the principal use. They must occupy less floor area, cover less lot area, and have a use that is secondary to the primary structure(s) and use(s) on the property. Buildings, structures (e.g., fence, carport, deck, etc.), and uses may all function as “accessory”, subject to the provisions below.
- B. **Accessory Uses:** Buildings may be used for home occupations in reference to sec 3-408.
- C. **Accessory Building.** Accessory buildings (e.g., sheds, workshops, etc.) shall not be used for sleeping or living purposes, shall not have cooking facilities, are limited to the height of the existing residence, and meet the setbacks for the district.

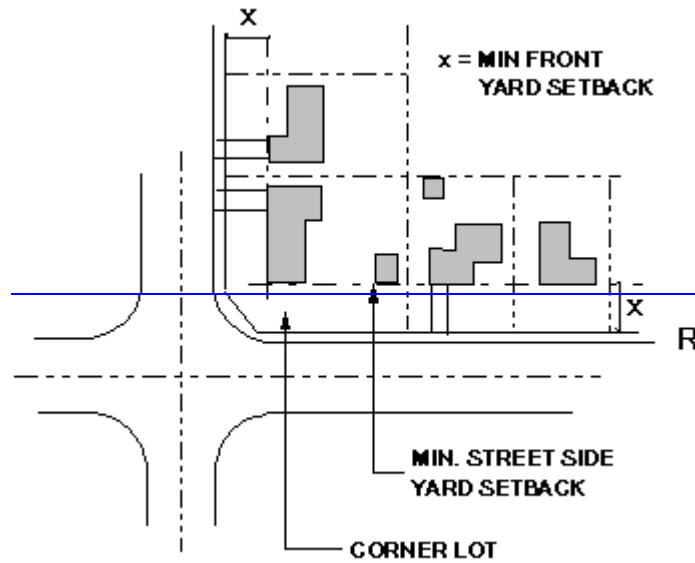


- D. Accessory Structure.** An accessory structure shall be located behind the front yard setback, limited to a maximum 120 s.f. in area, is equal to or less than 8 feet in height, and may encroach into the rear, side, and street side yard setback, provided that required separation for fire protection is provided and the following standards are met. :

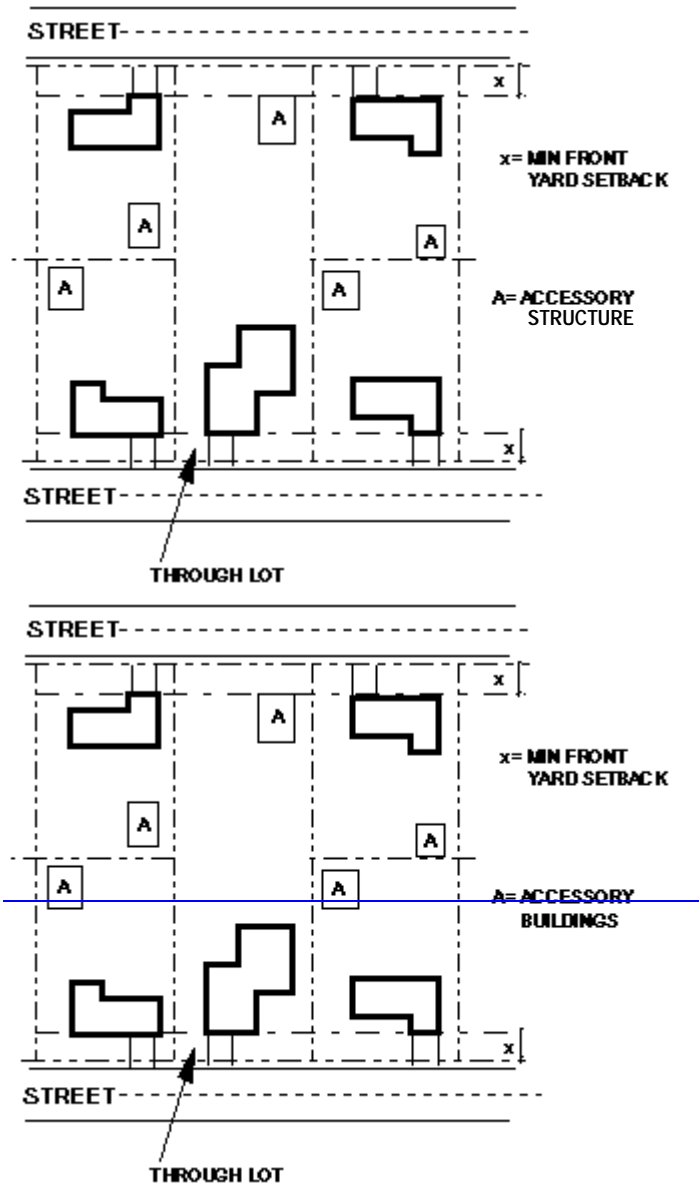


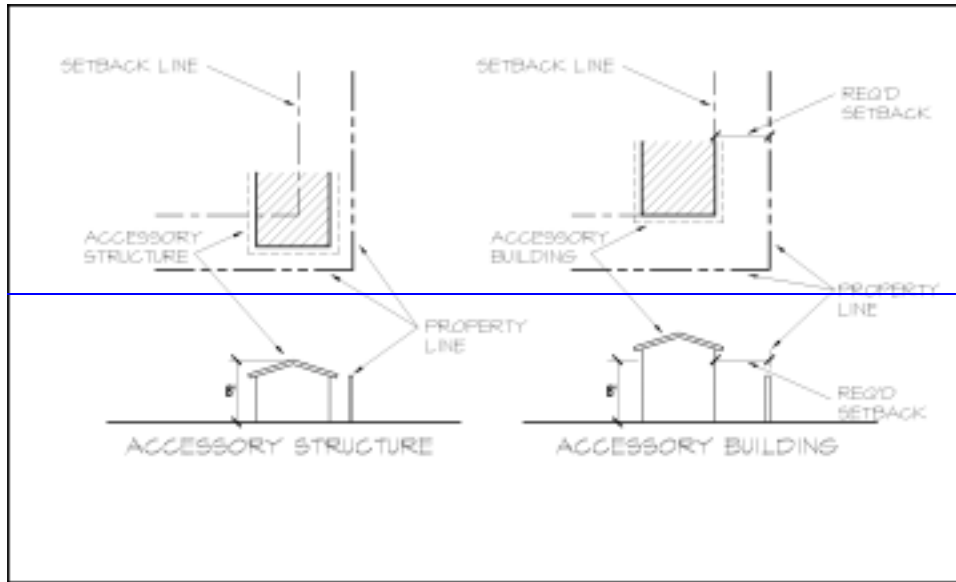


1. On a lot in the AG district, an accessory structure shall not be located closer than twenty (20) feet from rear and side property lines;



2. On a through lot, an accessory structure shall not be located closer to the rear property line than the distance required for front yard setback; and





3. On a residential lot in the AG district, a shelter for the keeping of animals or fowl may be erected to the maximum height allowable for the main building in that district.

Section 3-403 Agricultural Uses.

Agricultural uses are permitted in the AG district and shall conform to the following standards:

- A. **Farming.** Farming, including all types of agriculture and horticulture, such as flower and vegetable gardening, field crops, berry and bush crops, tree crops, and orchards, and their storage.
- B. **Livestock.** The keeping of livestock, including cattle, horses, sheep, goats or similar animals except the keeping of swine. The number of such livestock permitted shall be calculated on the basis of one horse, cow or similar animal, or two (2) sheep, goats or similar animal for each six thousand (6,000) square feet of net lot area after deducting one-half (1/2) acre for the home site. The total aggregate of all such animals permitted shall be twenty-four (24). Animals of six (6) months or younger shall not be counted.
- C. **Apiaries.** Apiaries, upon the following conditions:
 1. Occupied bee hives shall be at least two hundred (200) feet from any existing dwelling on another property;
 2. Occupied bee hives shall have a minimum separation of fifty (50) feet to any property line; and

3. Occupied beehives shall have a minimum separation of one hundred and fifty (150) feet to any street or bridle path.
- D. Grazing.** The grazing and keeping of cattle, sheep or horses, except swine on a site of five (5) or more acres; including the supplementary feeding of such cattle, sheep, or horses, provided such grazing is not a part of, nor conducted in conjunction with any dairy or livestock sales yard located on the same premises.
- E. Processing of Farm Products.** Farming and processing of farm products, customarily conducted on farms, is permitted on a site of five (5) or more acres.
- F. Horse Ranch.** A commercial horse ranch may be permitted with a minimum net site of ten (10) acres or more.
1. The keeping of horses in the R1-15 and R1-10 district provided the following conditions are met:
 - a. The zoning is in effect at the time this ordinance becomes effective;
 - b. The rear yard of site with R1-15 and R1-10 districts abuts property in the agricultural district and the conditions, covenants and restrictions of such agriculturally zoned property permits the keeping of horses;
 - c. The lots in the R1-15 and R1-10 districts are not less than thirty thousand five hundred (30,500) square feet in area;
 - d. The minimum distance from the rear of the dwelling unit to the rear property line is not less than two hundred (200) feet;
 - e. The lots in the R1-15 and R1-10 districts are located south of Elliot Road; and
 - f. The number of horses permitted shall be determined by following the criteria set forth in Section 3-403 B. of this code.
- G. Dairy Farm.** A dairy farm may be permitted with a net site area of forty (40) acres or more.

Section 3-404 Bed and Breakfast.

Bed and breakfast use is allowed in all districts permitting residential use, subject to approval of a use permit and conformance to the following standards:

- A. Accessory Use.** A bed and breakfast facility must be accessory to a residential use on the subject site. This means that the individual or family who operates the facility must occupy the dwelling as their primary residence.

- B. **Maximum Size.** Bed and breakfast facilities are limited to a maximum of 5 bedrooms for guests and the maximum occupancy per night shall be established by use permit.
- C. **Employees.** Bed and breakfast facilities may have nonresident employees for the lodging activity such as booking rooms and food preparation, if approved as part of the use permit. Hired service for normal maintenance, repair and care of the residences or site such as yard maintenance may also be approved. The number of employees and the frequency of employee auto trips to the facility may be limited or monitored as part of the use permit approval.
- D. **Service to Guests.** Food services may only be provided to overnight guests of a bed and breakfast in residential districts. Food service ~~all~~ may be provided to overnight guests and other guests in all mixed-use (MU) districts. Any other service is subject to the use requirements of the ~~land use~~ zoning district.
- E. **Meetings and Social Gatherings.**
 - 1. Commercial meetings – Activities including luncheons, banquets, parties, weddings, meetings, charitable fund raising, commercial or advertising activities, or other gatherings for direct or indirect compensation are prohibited at a bed and breakfast facility.
 - 2. Private social gatherings – The residents of bed and breakfast facilities may be allowed to have social gatherings, parties, or meetings if authorized in the use permit.

Section 3-405 **Boutique.**

Home, religious organization, or not-for-profit service organization boutiques are permitted in residential districts, and shall conform to the following conditions:

- A. **Enclosed.** The boutique shall be carried on wholly within a dwelling unit, school (private), or a place of worship.
- B. **Products Sold.** The boutique shall primarily sell locally handcrafted items.
- C. **Operation.** The boutique shall operate for not more than any five (5) consecutive days in each one-half (1/2) calendar year at any one location. The activity shall be limited to the hours between 9:00 a.m. and 8:00 p.m.
- D. **Impacts.** There shall be no offensive noise, vibration, smoke, dust, odors, heat or glare produced by the boutique. The activity shall not generate such additional traffic and parking in the area of the boutique which would create a traffic or safety hazard.
- E. **Signs.** All signs used by the boutique shall comply with this Code, Section 4-902 et seq.

- F. Sales Tax.** The boutique shall comply with the applicable transaction privilege (sales) tax provisions of the Tempe City Code (TCC) §16-1 et seq.
- G. License.** The operator or sponsor of the boutique must apply for a city transaction privilege (sales) tax license a minimum of ten (10) days prior to the start of the boutique and obtain the license prior to conducting business.
- H. Violation.** Any violation of the above conditions shall cause the immediate revocation of the boutique's privilege to transact business within the city.

Section 3-406 Day Care, In Home 7-10 Children.

Home day care for seven (7) to ten (10) children shall require a use permit and comply with the following conditions:

- A. License and Certified.** Licensed, certified or approved by the State of Arizona; and
- B. Administrative Review.** Such home is reviewed and approved by the City of Tempe, Development Services Department, for current building code and land use code compliance; complying with state regulations related to the operation of day care facilities. See Arizona Revised Statutes, Division 43.

Section 3-407 Group Homes for Adult Care, Disabled, and Child Shelter.

Group homes for adult care, disabled, and child shelters shall comply with the following conditions:

- A. Distribution of Uses.** No such home or shelter is located on a lot within twelve hundred (1,200) feet, measured by a straight line in any direction, from the lot line of another group home;
- B. Occupancy.** The number of residents is limited by applicable state laws, including any minimum square footage requirement per person, but in no event shall the number of residents exceed ten (10);
- C. License.** Such home is licensed by, or certified by, or approved by, or registered with, funded by or through, or under contract or subcontract with, the State of Arizona. See Arizona Revised Statutes, Division 36; and
- D. Administrative Review Required.** Such home must be reviewed and approved by the Development Services Manager for building code and land use compliance prior to the use commencing.

Section 3-408 Guest Room.

A guest room or sleeping room for a single family residence, shall provide occupancy for not more than two (2) persons, but in which no provision is made for cooking and does not include dormitories for sleeping purposes. All points of ingress or egress to such room shall be located through the main residence of which such room is an integral part; this excludes doors opening to patios or balconies that are part of the main residence.

Section 3-409 Guest Quarters.

Guest quarters shall not be rented or leased, separate from the main building. Such quarters shall be attached to the main building, carport or garage, or connected by a breezeway with a maximum distance of twenty-four (24) feet with a minimum width of eight (8) feet and shall be connected by the same roof structure. Guest quarters may provide cooking facilities.

Section 3-4~~100~~8 Home Occupation.

Home occupations are permitted to allow those who are engaged in small commercial ventures which could not necessarily be sustained if it were necessary to lease commercial quarters or which, by the nature of the venture, are appropriate in scale and impact to be operated within a residence. They are permitted in all residential dwellings as an accessory use [Sec. 7-102], subject to the following standards which are intended to protect the residential character of Tempe's neighborhoods:

A. Appearance of Residence.

1. The home occupation shall be restricted to lawfully-built enclosed buildings and be conducted in such a manner as not to give an outward appearance of a business~~:-~~
2. The home occupation shall not result in any structural alterations or additions to a building that will change its primary use or building code occupancy classification~~:-~~
3. The home occupation shall not violate any conditions of development approval (i.e., prior development permit approval)~~:-~~
4. Products and or equipment produced or used by the home occupation shall not be displayed or visible from outside any building; and-
5. No offensive noise, vibrations, smoke, dust, odors, heat or glare shall be produced.

B. Storage.

1. On-site storage of hazardous materials (including toxic, explosive, noxious, combustible or flammable) beyond those normally incidental to residential use is prohibited.

- ~~3-2~~ Inventory, products, equipment, fixtures, and activities associated with the home occupation shall be allowed in any building.

C. Employees.

1. Other than family members residing within the dwelling located on the home occupation site, there shall be no more than one (1) full time equivalent employee at the home occupation site at any given time. As used in this chapter, the term ~~A~~home occupation site~~@~~ means the lot on which the home occupation is conducted.
2. Additional individuals may be employed by or associated with the home occupation, so long as they do not report to work or pick up/deliver at the home.
3. The home occupation site shall not be used as a headquarters for the assembly of employees for instruction or other purposes, including dispatch to other locations.

- D. Advertising and Signs.** Home occupations may display address numerals and an identification sign no more than 1 s.f. in size in accordance to Section 4-902 et seq., related to signs permitted with residential uses.

E. Vehicles, Parking and Traffic.

1. ~~-~~Vehicles associated with the home occupation must comply with TCC Sec. 21-4.
2. There shall be no more than three commercial vehicle deliveries to or from the home occupation site daily. There shall be no commercial vehicle deliveries during the hours of 10 p.m. to 7 a.m.
3. There shall be no more than one client or customer vehicle at any one time and the activity shall not generate traffic beyond that normal in its district.

- F. Business Hours.** Clients or customers are permitted at the home occupation from 7 a.m. to 10 p.m. only.

- G. Prohibited Uses:** A "home occupation" shall not include the sale of commodities on premises, nor among others, the following: barber shops and beauty parlors; commercial stables, veterinary offices, hospitals and kennels; ~~real estate offices~~; restaurants; motor vehicle repairing; massage parlors.

Section 3-411 Hospitals, Sanitariums, Nursing Homes

Hospitals or sanitariums for the treatment of human ailments, nursing or convalescent homes, orphanages, and institutions for the mentally disabled, epileptic, drug or alcoholic patients; institutions of an educational, religious, or philanthropic nature; homes for the

aged, without cooking facilities in individual dwelling units. Any building so used shall be not less than fifty (50) feet from the lot line of any adjoining property.

Section 3-4~~12~~⁰⁹ Live-Work.

Live-work is permitted in all mixed-use (MU) districts and in the CC and R/O districts, and is permitted with a use permit in the PCC-1, PCC-2, and all multifamily districts. Live-work is permitted to provide a housing and employment option that is transportation efficient and low-impact on adjacent neighborhoods. Live-work uses are subject to the standards for home occupations in Section 3-408, with the following exceptions:

- A. **Employees.** Two (2) full time equivalent employees, in addition to the family members residing in the dwelling, may work on premises;
- B. **Signs.** Signs are permitted that do not exceed ~~16~~² square feet of combined area for all signs (wall, portable, blade, etc.), and comply with the standards for commercial use signs in 4-901 et seq.
- C. **Vehicles, Parking and Traffic.** The MU and CC, ~~PCC-1 and PCC-2~~ districts are exempt from the standard in Sec. 3-408 E. All multi-family districts shall comply with Sec. 3-408 E. ~~The PCC-1, PCC-2, and all multifamily districts shall comply with Sec 3-408 E.~~

Section 3-41~~30~~³⁰ Mobile Homes.

- A. **Access.** A minimum of two (2) vehicular entrances shall be provided for each mobile home park, mobile home subdivision, and trailer park development. One entrance may be kept closed to the general public if provision is made for emergency access and if this entrance is not necessary to accommodate the volume of traffic generated by uses on the site.
- B. **Perimeter Walls.** Perimeter boundaries of all mobile home parks, mobile home subdivisions and trailer parks shall have a perimeter wall with a minimum height of eight (8) feet, measured from the highest adjacent grade within twenty (20) feet. The wall shall be of masonry or concrete construction, with architectural texture, finish, and color to be compatible with other buildings in the vicinity. The perimeter wall shall be designed to create an attractive appearance, incorporating elements such as recesses, piers, pilasters, contrasting courses and texture. The area between the wall and the public street shall be landscaped, and the wall may contain pedestrian access gate(s) allowing police and emergency access from the street, as approved through Design Review. Street frontage landscape areas of mobile home and trailer park developments shall be maintained by the mobile home or trailer park operators.

Section 3-414 Outdoor Retailing, relating to special sporting events

Refer to Section 6-309 L. Exceptions and Special Use Permit Provisions, for regulations on outdoor retailing, relating to special sporting events.

Section 3-41~~5~~⁴ Residential Sales Office, Temporary.

Temporary residential sales offices are permitted for the sale of homes being constructed on the premises and for a period not exceeding twenty-four (24) months. Extensions of this time requires approval by the Hearing Officer or Board of Adjustment. The residential sales office is subject to the following conditions:

- A. **Location.** Temporary residential sales offices may be located in a building designed as a dwelling unit or in a modular office building located on the site.
- B. **Temporary Occupancy Permit.** Prior to use of the premises as a temporary residential sales office, a temporary occupancy permit shall be obtained from the development services manager.
- C. **Conversion and Final Approval of Dwelling.** Prior to the sale of any dwelling that has been used as a temporary residential sales office, the dwelling shall be restored to comply with all applicable codes and ordinances, and final approval obtained from the Development Services Department.

Section 3-41~~6~~² Single family Residential Second Story Addition or Rebuild.

Second story addition to a single family dwelling, or replacement of one-story single family dwelling with a dwelling of two or more stories, are allowed with a use permit. This Section shall not apply to replacement dwellings where the dwelling previously occupying a lot was demolished prior to the effective date of the land use ordinance.

Section 3-41~~7~~³ Wireless Telecommunication Facilities.

- A. **Towers:** Wireless telecommunications towers and ~~other~~ related equipment facilities shall be allowed upon approval with a use permit.
- B. **Building mounted:** Building mounted telecommunications (WTFs) shall be integrated into the design of the building or be fully screened, and in either case must receive Design Review approval as a building modification. Satellite dishes not exceeding 2' in diameter shall be permitted in any zone. Building mounted dishes shall require administrative review, except for residential uses. Building mounted dishes greater than 2' in diameter are permitted in commercial, mixed use, and industrial districts and shall require a use permit.
- C. **Co-~~l~~ocation:** WTFs may be collocated, subject to administrative review, ~~and will not require a use permit, unless an increase in height of the existing tower is necessary.~~ Any addition to the existing height or change in appearance of the tower to facilitate collocation shall require a use permit. WTFs attached to existing light, power, or telephone poles require a use permit.
- D. **Application Requirements.** An applicant for a new WTF (use permit or administrative review) shall submit the following information:

1. Use permit application, including a site plan, when applicable.
2. For towers, monopoles, and similar proposals, A visual study containing, at a minimum, a vicinity map depicting where, within a half-mile radius, any portion of the proposed WTF could be visible, and a graphic simulation showing the appearance of the proposed tower and accessory structures from two separate points within the impacted vicinity, accompanied by an assessment of potential mitigation measures. Such points are to be mutually agreed upon by the Development Services Manager and the applicant.
3. Documentation of the steps that will be taken to minimize the visual impact of the proposed WTF.
4. A landscape plan drawn to scale that is consistent with the need for screening at the site. Any existing vegetation that is to be removed must be clearly indicated and provisions for mitigation included where appropriate.
5. A feasibility study for the co-~~l~~location of telecommunication facilities as an alternative to new structures. The feasibility study shall include:
 - a. An inventory, including the location, ownership, height, and design of existing WTFs within one-half mile of the proposed location of a new WTF. The Development Services manager, hearing officer, or Board of Adjustment may share such information with other applicants seeking permits for WTFs, but shall not, by sharing such information, in any represent or warrant that such sites are available or suitable.
 - b. Applicant shall document efforts made to co-~~l~~locate on existing towers. Each applicant shall make a good faith effort to contact the owner(s) of existing or approved towers and shall provide a list of all owners contacted in the area, including the date, form and content of such contact. Co-~~l~~location shall not be precluded simply because a fee for shared use is charged, or because of reasonable costs necessary to adapt the existing and proposed uses to a shared tower. Co~~l~~location costs exceeding new tower development are presumed to be unreasonable.
6. The Development Services Manager may request any other information deemed necessary to fully evaluate and review the application and the potential impact of a proposed tower and/or antenna.

E. Abandoned Tower/Antenna.

1. The wireless telecommunication tower/antenna shall be removed within thirty (30) days of discontinuance of the tower/antenna's use.

Section 3-41~~8~~4 Mini-~~W~~arehouse.

Mini-warehouses are for storage purposes only. No retailing is permitted from these facilities.

Section 3-41~~95~~ Drive-Through Facilities.

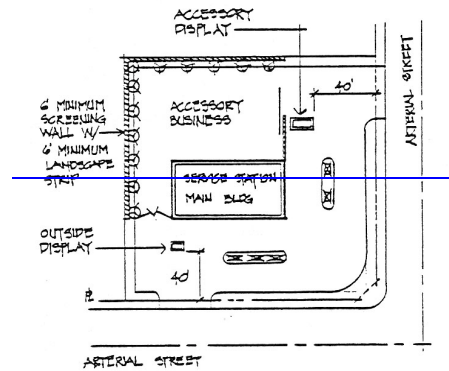
Drive-through facilities shall be oriented toward side or rear yards. Where the land use district provides a maximum setback, a drive-through facility shall not be placed within the minimum-maximum setback.

Section 3-4~~2016~~ Outdoor Retail ~~and~~ Display.

A. **Purpose.** The purpose of this section is to allow a business or tenant to display an incidental amount of merchandise adjacent to the exterior of a building.

B. **Applicability.** Outdoor displays are allowed in the Commercial, Mixed Use, and ~~Office/~~Industrial districts, subject to the following regulations:

1. Displays are prohibited in City right-of-way, except in the CC district subject to an encroachment permit or lease;
2. Displays shall not occupy required parking areas, pedestrian paths, landscaped areas, or vehicular driveways (including fire lanes);
3. Displays shall be located within three (3) feet of ~~immediately adjacent to~~ the business space;
4. Any display must allow for a minimum 6' wide pedestrian path across the building frontage and to and from all building entrances and exits;
5. Displays are limited to the normal hours of operation;
6. Solid display structures are limited to four (4) feet in height and total display area shall not obscure more than 25% of window area;
7. Display merchandise shall be the same as that sold inside the store;
8. Sales demonstrations are allowed without amplification;
9. Point of display signage shall not exceed a total of three (3) square feet; and
10. Transaction of display items shall be made inside the place of business.



Section 3-42147 Adult-Oriented Businesses.

- A. **Purpose.** It is recognized that there are some ~~uses which~~uses, which, because of their very nature, are recognized as having serious objectionable operational characteristics, particularly when several such uses are concentrated under circumstances having a deleterious effect upon the use and enjoyment of adjacent areas. Special regulation of these uses is necessary to insure that these adverse secondary effects will not contribute to the blighting or downgrading of the existing surrounding neighborhood. These special regulations are itemized in this section. The purpose of the regulation is to promote the health, safety, and general welfare of the citizens of the city by preventing a concentration of these uses in any one area. It is not the intent of this Code to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Further, it is not the intent of this Code to permit any use or ~~act which~~act, which is otherwise prohibited or made punishable by law.

Cross reference—See also the following definitions in Part 7 of this Code: adult-oriented business, adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion picture theater, adult novelty store, adult service, adult service business, adult theater, adult video facility, escort, escort agency, nude model studio, nudity/state of nudity, sexual encounter center, specified anatomical areas and specified sexual activities.

City code reference—See TCC §16A-56, escort definitions and rules; TCC §16A-112 et seq., adult-oriented businesses.

- B. **Locational Requirements.** Adult-oriented businesses are subject to the following: ~~locational requirements:~~

1. Allowed in the LID and HID zoning districts, subject to the following location requirements:

- a. No adult-oriented business shall be operated or maintained within one thousand (1,000) feet of another adult-oriented business; a church, synagogue or temple; a child care facility, preschool, nursery, kindergarten or similar use; a public or private elementary or secondary school; a library; a public park; a public community

building; a public or private recreational facility where minors are permitted;

b. No adult-oriented business shall be operated or maintained within one thousand (1,000) feet of an establishment having an Arizona spirituous liquor license with any of the following classifications: Bar (Series 06); Beer and Wine Bar (Series 07) or the equivalent of such licenses; and

c. No adult-oriented business shall be operated or maintained within one thousand (1,000) feet of a boundary of a residential district as defined herein; or the property line of a lot devoted to a residential use.

2. For the purpose of subsection 1 above, the distance limitations in shall be measured as the shortest horizontal line between the property lines of the relevant property involved. This measurement shall exclude any public right-of-way.

3. Any adult-oriented business that fails to comply with this section but which was lawfully operating before City Code Chapter 16A Article VI, took effect shall not be deemed to be in violation of this article when the article takes effect. However, such business will not be permitted to be increased, enlarged, extended or altered except the business may be changed so as to fully comply with this article. An adult-oriented business lawfully operating is not rendered in violation of this code by the location, subsequent to the grant or renewal of the license herein, of any of the premises identified in subsection 1 and 2 above. (Ord. No. 95.49, 12-14-95)

~~1.No adult-oriented business shall be operated or maintained within one thousand (1,000) feet of a residentially-zoned district or be located within one thousand (1,000) feet of any other adult-oriented business. For the purpose of this subsection, all adult-oriented businesses with a common owner and building entrance shall be considered a single adult-oriented business; and~~

~~2.No adult-oriented business shall be operated or maintained within one thousand (1,000) feet of a public park, church, synagogue or temple, a state-licensed child care facility, any elementary or secondary school, library, public community building or public or private recreational facility, adult group home and child shelters, where minors are permitted; and~~

~~3.The distance limitations in this subsection shall be measured as the shortest horizontal line between the property lines of the relevant property involved. This measurement shall exclude any public right-of-way.~~

C. Operational Requirements. Any adult-oriented business shall comply with the following requirements, as well as those contained in Tempe City Code, Chapter 16A 112 through 135:

1. Security plan required. ~~Refer to Appendix.~~

2. For the prevention of the spread of sexually transmitted disease, no partitions between subdivisions of a room, portion or part of a building, structure or premises may have an aperture which is designed or otherwise constructed to permit sexual activity between persons on either side of the partition;
3. No booths, stalls, or partitioned portions of a room, or individual rooms, used for the viewing of motion pictures or other forms of entertainment, shall have doors, curtains or portal partitions, but all such booths, stalls, partitioned portions of a room, or individual rooms so used shall have at least one side open to an adjacent public room so that the area inside is visible to persons in the adjacent public room. All such described areas shall be lighted in such a manner that the persons in the areas used for viewing motion pictures or other forms of entertainment are visible from the adjacent public rooms, but such lighting shall not be of such intensity as to prevent the viewing of the motion pictures or other offered entertainment:
 - a. The words "booth, stalls, partitioned portions of a room or individual rooms" mean such enclosures as are specifically offered to the public or members of that establishment for hire or for a fee as part of a business operated on the premises which offers as part of its business the entertainment to be viewed within the enclosure; which shall include, without limitation, such enclosures wherein the entertainment is dispensed for a fee, but a fee is not charged for mere access to the enclosure;
 - b. The words "booths, stalls, partitioned portions of a room or individual rooms" do not mean such enclosures that are private offices used by the owners, managers or persons employed on the premises for attending to the tasks of their employment, which enclosures are not held out to the public or members of the establishment for hire or for a fee or for the purpose of viewing entertainment for a fee, and are not open to any persons other than employees;
 - c. The words "doors, curtains or portal partitions" mean full, complete, nontransparent closure devices through which one cannot see or view the activity taking place within the enclosure; and
 - d. The words "open to adjacent public room so that the area inside is visible to persons in the adjacent public room" shall mean either the absence of any "door, curtain or portal partition" or a door or other device which is made of clear, transparent material such as glass, plexiglass or other such material meeting building code and safety standards, extending from the floor to the top of the door frame, exclusive of the door or device framing itself, so that the activity inside the enclosure may be viewed or seen by persons outside the enclosure.

Chapter 5 – Non-Conforming Situations

Section 3-501	Purpose.
Section 3-502	General Provisions.
Section 3-503	Legal Non-Conforming Development.
Section 3-504	Legal Non-Conforming Use.
Section 3-505	Discontinuance of a Legal Non-Conforming Use
Section 3-506	Damage to a Legal Non-Conforming Development.
Section 3-507	Legal Non-Conforming Lots of Record.

Section 3-501 Purpose.

The purpose of this section is to allow non-conforming uses and developments to continue, but not to encourage their perpetuation; and ultimately bring development and uses into conformance with this Code.

Section 3-502 General Provisions.

- A. **Legal Non-Conforming Uses and Developments.** Nothing in this ordinance shall affect existing property or the right to its continued use for the purpose used at the time the ordinance takes effect, nor to any reasonable repairs or alterations in buildings or property used for such existing purpose.
- B. **Approved Projects.** Nothing in this Code shall be deemed to require a change in the plans, construction, or designated use of any building ~~for on~~ which ~~a building permit has been lawfully issued~~ actual construction was lawfully begun prior to the effective date of adoption or amendment of this Code ~~and upon which actual building construction has been carried on diligently.~~

Section 3-503 Legal Non-Conforming Development.

All developments may be maintained but shall not be re-erected, relocated, or replaced unless brought into compliance with this code.

Section 3-504 Legal Non-Conforming Use.

A non-conforming use may be expanded or enlarged to an extent not exceeding twenty five percent (25%) of the land area or building ~~ground~~ floor area existing at the time it became

non-conforming ~~being used for the non-conforming use~~. Such expansion shall require a use permit .

Section 3-505 Discontinuance of a Legal Non-Conforming Use

Whenever a non-conforming use has been abandoned or ceases to exist for a period in excess of one year, such use shall not thereafter be re-established. For purposes of this Code, rental payments or lease payments and taxes shall not be considered as a continued use.

Section 3-506 Damage to a Legal Non-Conforming Development.

If a non-conforming development is damaged by any means to an extent exceeding ~~60~~50 percent of its most recent, pre-damage valuation, any repair, replacement, or reconstruction of that development on the site shall conform to the requirements of the district in which it is located.

Section 3-507 Legal Non-Conforming Lots of Record.

A legal, non-conforming lot, existing at the time of adoption of this ordinance, may be developed with a use permitted in the district for which the lot is zoned, subject to complying with the current standards of that district ~~of~~ except for, lot size, width and length.